IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

ATTORNEY DOCKET NO. **AUS000192US1**

In re Application of:	§	
	§	
DUTTA ET AL.	§	Examiner: **JAVID AMINI**
	§	
Serial No.: **09/583,346**	§	Art Unit: **2628**
	§	
Filed: **May 31, 2000**	§	Confirmation No.: **2382**
	§	
For: **SYSTEM AND METHOD FOR DISPLAYING DATA ON A PORTABLE DEVICE**	§	

SECOND AMENDED APPEAL BRIEF

Commissioner for Patents
Mail Stop Appeal Briefs – Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The present Second Amended Appeal Brief is submitted in response to the Notification of Defective Appeal Brief mailed November 27, 2007.

REAL PARTY IN INTEREST

The real party in interest of the present application is the Assignee, International Business Machines Corporation of Armonk, New York, as evidenced by the Assignment set forth at Reel 010839/Frame 0548.

RELATED APPEALS AND INTERFERENCES

In a decision in Appeal No. 2004-1712 mailed January 28, 2005 in the present application the Examiner's rejection of claims 2-8, 11, 12, 14-17, 20, 21, 23-26 and 28-30, all of the claims then pending in the application, was reversed.

STATUS OF CLAIMS

Claims 2-8, 11, 12, 14-17, 20, 21, 23-26 and 28-30 stand finally rejected by the Examiner as noted in the Examiner's Action dated March 29, 2006.

STATUS OF AMENDMENTS

No amendment has been submitted subsequent to this final rejection.

SUMMARY OF THE CLAIMED SUBJECT MATTER

As described in the present specification at page 3, lines 13 *et seq.*, the method of Claim 28 and the system of Claim 29 of the present invention describe a technique for permitting the display on a portable device to "flip" itself between different screen orientations such that both the narrow dimension and wide dimension of the display can be exploited. A preferred embodiment particularly adapted to displaying Web data on wireless devices, such as portable telephones etc., permits the Web data to be effectively display by flipping the display orientation between the narrow and wide dimensions of the display, either as selected by user action or dynamically by the portable device itself.

As illustrated within Figures 2A and 2B, and as described in the present specification at page 6, lines 3 *et seq.*, two different orientations of display of the same portable telephone device **205** are depicted. Display **210** is depicted as extending across most of the face of telephone **205**, with a microphone **215** located at one end of the display and a speaker **220** at the opposite end of the display.

As illustrated in Figure 2A, data **225** is shown oriented so that the text is read across the narrow dimension of display **210**, as is conventional with most current portable telephones. It should be clear that reading the data in this display can be quite difficult. However, as depicted in Figure 2B, data **230** has been rotated 90° so that it extends across the wide dimension of display **210**, rendering that data much easier to read.

Claims 28 and 29, the independent claims on Appeal, both recite receiving a data page within a portable device having a display which is significantly larger in a first dimension than in a second dimension. The receipt of a data page is depicted at block **310** of Fig. 3. Thereafter, each claim recites the automatically displaying of a data page in either a first orientation or a second orientation in response to an analysis of that data page. This portion of the claimed subject matter is described in the present specification at page 7, line 15 *et seq.*, and illustrated within Fig. 3. Therein, as depicted at step **315**, the device may display data in a default orientation or, alternatively, "the device can automatically determine the best-fit orientation for the display. By examining the line-width of the text being received, the device will determine whether the wide or narrow orientation will be used as the default orientation for that set of text."

Independent Claim 30 recites a computer program product which implements the technique set forth and described above with respect to Claims 28 and 29. As described in the present specification at page 8, line 20 *et seq.*, the present invention is set forth as being distributed "in the form of a computer useable medium of instruction in a variety of forms..." such as "non volatile, hard-coated type mediums such a read only memories (ROMs) or erasable, electrically programmable read only memories (EEPROMs), recordable type mediums such as floppy disks, hard drives and CD-ROMs, and transmission type medium such as digital and analog communication links." Instructions embodied within the media described at the quoted portion of the specification above are utilized to cause the portable data processing device to receive a data page, as depicted at block **310** of Fig. 3. Thereafter, the instructions caused the automatic display of the data page in either a first orientation or a second orientation in response to an analysis of the data page as described in the present specification at page 7, line 15 *et seq.*, and is illustrated within Fig. 3.

Thus, the computer program product set forth within Claim 30 comprises multiple instructions embodied within media readable by the portable data processing system as described

in the present specification above which implements the technique set forth within Claims 28 and 29, as described above.

GROUNDS OF REJECTION TO REVIEWED ON THE APPEAL

The Examiner's rejection of claims 2-8, 11-12, 14-17, 20, 21, 23-26 and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over *Moriya*, United States Patent No. 6,161,140 is to be reviewed within the present Appeal.

ARGUMENT

A. Rejection of Claims 2-8, 11-12, 14-17, 20, 21, 23-26 and 28-30 under 35 U.S.C. § 103(a) as unpatentable over *Moriya* United States Patent No. 6, 161,140.

In the analysis of Claim 28, chosen as an exemplar of the claims contained within this rejection, the Examiner correctly points out that *Moriya* teaches a portable electronic device capable of receiving a data page and displaying that data page. However, thereafter the Examiner has impermissibly broadened the actual teaching of *Moriya* in an attempt to find a suggestion within that reference for the automatic display of a data page "in either a first orientation or a second orientation within the display in response to the analysis of the data page" citing Fig. 15, box 12 which illustrates a "code transfer section" which the Examiner believes "automatically prepares the model code."

Appellant respectfully urges the Board to consider that at column 9, line 6 *et seq.*, *Moriya* teaches that code transfer section 12 is present within data terminal 1A (the portable device) and is utilized to enable "the data terminal 1A to communicate with a central facility 2A" and is "a part of the hardware of the data terminal 1A ." Thus, code transfer section 12, the Examiner's protestations to the contrary, is not involved in the display of data within the portable terminal device but rather, as clearly and graphically indicated within Fig. 15, transfers data from the portable device to a model code decode section within central facility 2A.

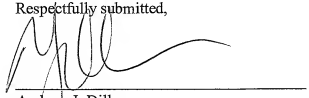
Thus, a fundamental difference exists between code transfer section 12 and the claimed feature of the present invention due to the inability of code transfer section 12 to display a data page within the portable device, as expressly claimed within the claims of the present application.

Next, a further examination of the description of code transfer section 12, notes that this section is utilized to prepare "a model code based upon the capabilities and features of the data terminal 1A which are input by the user of the data terminal 1A...." (emphasis added). Thus, it would appear to be beyond cavil that code transfer section 12 cannot be said to "automatically" display "the data page in a first orientation or a second orientation within the display in response to the analysis of the data page..." Still further proof of this assertion is found at column 9, line 17 *et seq.* of *Moriya* wherein the model code is described as including "a discrimination header code and function codes which indicate the capabilities of the display, display size, code scheme, communication protocols, still image formats and memory capacity." This model code is once again described by *Moriya* as "based on an input data by the user."

The Board is therefore urged to consider that code transfer section does not facilitate the display of data within the portable device but rather prepares model code to be transmitted from the model device to the central facility. Further, code transfer section does not analyze a data page automatically to determine which orientation is best but merely transmits parameters which are input by the user. Consequently, Appellant urges the Board to consider that the Examiner's rejection of Claims 2-8, 11-12, 14-17, 20, 21, 23-26 and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over *Moriya*, United States Patent No. 6,161,140 is not well founded for the reasons set forth above with respect to exemplar Claim 28 and the Examiner should be reversed.

No filing fee is believed to be necessary; however, in the event that any additional fee is required, please charge it to IBM Deposit Account Number 09-0447.

Respectfully submitted,



Andrew J. Dillon
Reg. No. 29,634
DILLON & YUDELL LLP
8911 N. Capital of Texas Highway, Suite 2110
Austin, Texas 78759
512-343-6116

ATTORNEY FOR APPELLANTS

CLAIMS APPENDIX

1. Cancelled

2. The method of claim 28, wherein the data page is received over a wireless connection.

3. The method of claim 28, wherein the second orientation is a ninety-degree rotation of the first orientation.

4. The method of claim 28, wherein the device comprises a display that is significantly larger in a first dimension than in a second direction orthogonal to the first dimension.

5. The method of claim 28, wherein the data page is redisplayed in response to a user input.

6. The method of claim 28, wherein the data page is redisplayed after a preset duration.

7. The method of claim 28, wherein in the portable device is a wireless telephone.

8. The method of claim 28, wherein the portable device is a personal digital assistant.

9. Cancelled

10. Cancelled

11. The portable data processing system of claim 29, wherein the data page is received over a wireless connection.

12. The portable data processing system of claim 29, wherein the second orientation is a ninety-degree rotation of the first orientation.

13. Cancelled

14. The portable data processing system of claim 29, wherein the data page is displayed in response to a user input.

15. The portable data processing system of claim 29, wherein the data page is redisplayed after a preset duration.

16. The data processing system of claim 29, wherein the portable data processing system is a wireless telephone.

17. The data processing system of claim 29, wherein the portable data processing system is a personal digital assistant.

18. Cancelled

19. Cancelled

20. The computer program product of claim 30, wherein the data page is received over a wireless connection.

21. The computer program product of claim 30, wherein the second orientation is a ninety-degree rotation of the first orientation.

22. Cancelled

23. The computer program product of claim 30, wherein the data page is redisplayed in response to a user input.

24. The computer program product of claim 30, wherein the data page is redisplayed after a preset duration.

25. The computer program product of claim 30, wherein the portable device is a wireless telephone.

26. The computer program product of claim 30, wherein the portable device is a personal digital assistant.

27. Cancelled

28. A method for displaying data on a portable device having a display that is significantly larger in a first dimension than in a second dimension, said method comprising the steps of:

receiving a data page in the portable device;

analyzing the data page; and

automatically displaying the data page in either a first orientation or a second orientation within the display in response to the analysis of the data page.

29. The portable data processing system having a processor, writeable memory and a display which is significantly larger in a first dimension than in a second dimension, said portable data processing systems comprising:

means for receiving a data page in the portable data processing system;

means for analyzing the data page; and

means for automatically displaying the data page in either a first orientation or a second orientation within the display in response to the analysis of the data page.

30. A computer program product for use within a portable data processing device having a display that is significantly larger in a first dimension than in a second dimension, said computer program product comprising:

media readable by the portable data processing device;

instructions embodied within the media for receiving a data page within the portable data processing device;

instructions embodied within the media for analyzing the data page; and

instructions embodied within the media for automatically displaying the data page in either a first orientation or a second orientation within the display in response to the analysis of the data page.

EVIDENCE APPENDIX

Other than the Office Action(s) and reply(ies) already of record, no additional evidence has been entered by Appellants or the Examiner in the above-identified application which is relevant to this appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings as described by 37 C.F.R. §41.37(c)(1)(x) known to Appellants, Appellants' legal representative, or assignee.